

REMARKS

Applicant has carefully reviewed the Final Office Action mailed July 20 2009, and thanks Examiner Binda for the detailed review of the pending claims. In response to the Final Office Action, Applicant has amended the specification. Claim 5 has been amended. By way of this amendment, no new matter has been added. Accordingly, claims 5, 7 and 9 remain pending in this application. At least for the reasons set forth below, Applicant respectfully traverses the foregoing rejections.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future. Applicant respectfully requests reconsideration of the present application in view of the above amendment, and the following remarks.

Drawings

The Examiner objected to the replacement drawings filed on June 12, 2009 because in Fig. 2a the lengths of the first and second cage windows are indicated by reference characters X2 & X2', but in the specification at the bottom of page 2 those lengths are identified by reference characters X1 & X2. Applicant has amended paragraph [0004] of the specification to correct the typographical errors with respect to reference characters X2 and X2'. Thus, it is believed that the specification corresponds with the replacement drawings filed on June 12, 2009, as well as with the portion of the specification in paragraph [0019]. Accordingly, withdrawal of the objection is respectfully requested.

Claim Rejection – 35 U.S.C. § 112

Claims 5, 7 & 9 were rejected under 35 U.S.C. § 112, first paragraph. The Examiner alleges that the best mode contemplated by the inventor has not been disclosed. Applicant respectfully traverses the rejection.

As an initial matter, Applicant states that the arguments on page 11 of the replies filed on June 9 and 12, 2009 contain a typographical error. More specifically, the argument presented on page 11 should have read as follows: “In contrast to this express teaching, claim 5 requires that the pairs of ball tracks are arranged in parallel planes. Thus, the side faces of the cage windows also need to be in parallel planes.” This limitation can clearly be seen in FIG. 2A, as originally filed. Indeed, the side faces of the cage windows are parallel to the parallel planes E1, respectively E1’. Thus, Applicant did, in fact, disclose the best mode contemplated by the inventor when the application was filed.

To further clarify Applicant’s invention, as defined by claim 5, Applicant has amended claim 5 to recite:

“a pair of balls of adjoining pairs of tracks positioned in parallel planes, wherein side faces of each cage window, in a cross-sectional view through the ball cage, are parallel to said parallel planes.” . . .

As stated above, support for this amendment may be found in at least Figure 2A, as originally filed.

Further, it is believed that the claimed orientation of the side faces of the cage windows was implicitly recited in claim 5, prior to the present amendment. More specifically, claim 5 previously recited that each cage windows accommodates a pair of balls of adjoining pairs of tracks positioned in parallel planes. Thus, the side faces of each of the cage windows, which each accommodate a pair of balls, are parallel to the parallel planes.

As demonstrated above, because Applicant did, in fact, disclose the best mode contemplated by the inventor at the time of filing the application, Applicant believes the rejection has been overcome. Withdrawal of the rejection is therefore requested.

CONCLUSION

In view of the above amendment and remarks, the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66967-0008 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. §1.136 is hereby made, the fee for which should also be charged to this Deposit Account.

Dated: September 21, 2009

(the 20th falling on a Sunday)

Respectfully submitted,

By /Kristin L. Murphy/

Kristin L. Murphy

Registration No.: 41,212

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 84362

Attorney for Applicant